

**Before the
Federal Communications Commission
Washington, D.C. 20554**

Rates for Interstate Inmate Calling Services

WC Docket No. 12-375

**SECURUS TECHNOLOGIES, INC.
RESPONSE TO NOTICE OF APPARENT EX PARTE VIOLATION
AND MOTION TO STRIKE PROHIBITED EX PARTE PRESENTATIONS**

Securus Technologies, Inc. (“Securus”), through counsel, responds to the Notice of Apparent Ex Parte Violation issued October 29, 2015, and the Motion to Strike Prohibited Ex Parte Presentations filed by Lee G. Petro on November 2, 2015. The Declaration of Richard A. Smith, Chief Executive Officer of Securus, accompanies this response.

BACKGROUND

On October 22, 2015, the Commission adopted a new order in this docket by a 3-2 vote. After the vote, the Commission issued a press release describing the order. The press release included statements such as “With the cost of a call sometimes ballooning to \$14 per minute once inside prison walls,” and “Extra fees and charges can increase the cost of families staying in touch by phone with loved ones who are incarcerated by as much as 40%.”¹

Over the course of the next few days, Securus discovered a website where written threats were made against its executives based on statements in the October 22 press release.

The threats include:

¹ “FCC Takes Next Big Steps in Reducing Inmate Calling Rates” (Oct. 22, 2015), *available at* <<https://www.fcc.gov/document/fcc-takes-next-big-steps-reducing-inmate-calling-rates>>.

- “Some of these ceos need to be beaten down by former convicts, or whatever these criminals think is fair.”
- “ ... bastards are going to be gunned down in the streets. mock my words.”
- “Richard Smith and Brian Oliver have been added to my list of people I would beat senseless[.]”
- “Why don’t we find out where these executives live and do something about this?”

Declaration of Richard A. Smith ¶ 3 (Nov. 3, 2015); *see also* WC Docket No. 12-375, Letter from Stephanie A. Joyce, Counsel to Securus, to Marlene H. Dortch, FCC, Attachment (Oct. 30, 2015); Letter from Richard A. Smith, Securus, to Marlene H. Dortch, FCC, Attachment (Oct. 26, 2015).

Securus contacted the FBI and local police about these threats. Smith Decl. ¶ 6. Some Securus executives now have 24-hour protection due to these threats. *Id.* In addition to the threats found on the website, Securus executives personally have received threatening phone calls. *Id.* ¶ 5.

Securus also contacted FCC Staff to ask how, during the ongoing Sunshine period, it could bring these threats to the Commission’s attention. Securus was told that such a filing was possible. On October 26, 2015, Securus filed a letter from Mr. Smith regarding the death threats and appended the relevant screen shot from the website. Securus believes that it conformed its filing to Staff’s guidelines. Smith Decl. ¶ 7. Global Tel*Link Corporation (“Global Tel”), whose CEO Brian Oliver was also the target of the death threats, made a similar filing on October 27, 2015.

On October 29, 2015, the undersigned counsel was informed via e-mail that Commission Staff believe the October 26 filing violates 47 C.F.R. § 1.1203. That e-mail stated

that Securus could file a declaration explaining the circumstances of the October 26 filing within ten days.

On October 30, 2015, Securus re-filed the screen shot with a cover letter identifying the document and quoting 47 C.F.R. § 1.1204(a).

On November 2, 2015, Lee G. Petro filed a Motion to Strike Prohibited Ex Parte Presentations against Securus and Global Tel (“Petro Motion”). Mr. Petro asks that the Securus and Global Tel filings be considered “direct violations of the Commission’s rules” and requests that the FCC “take the appropriate action to sanction Securus and GTL to the full extent of its rules,” quoting Rule 1.1216 which includes “admonishment” and “monetary forfeiture” as possible sanctions. Petro Motion at 3.

DISCUSSION

Commission Rule 1.1204(a) states that:

The following types of presentations are exempt from the prohibitions in restricted proceedings (§ 1.1208), the disclosure requirements in permit-but-disclose proceedings (§ 1.1206), and the prohibitions during the Sunshine Agenda period prohibition (§ 1.1203) [t]he presentation directly relates to an emergency in which the safety of life is endangered or substantial loss of property is threatened[.]

The written death threats contained in Securus’s filings plainly “relate[] to an emergency in which the safety of life is endangered or substantial loss of property is threatened.” *Id.* As such, the Securus filings are exempt from the Commission’s rules, and no violation can be found nor any sanctions imposed. Moreover, these filings could not have been made prior to the Sunshine period, because the threats arose from the Commission’s press release issued October 22.

Mr. Petro, who inexplicably seeks sanctions against Securus and Global Tel, glibly asserts that “[t]he sole basis of this ‘emergency’ are excerpts from the comment section of news articles available on the Internet.” Petro Motion at 2. He calls this matter a “false

emergency.” *Id.* His callous disregard for the safety of Securus personnel is both chilling and troubling. Securus cannot fathom why an attorney would seek sanctions against a company that is already demonstrably under threat, its executives living with the possibility that misinformed persons want to “find out where these executives live” and beat them “senseless”. All arising from the false statement that calls cost “\$14 per minute.”

Securus has not attempted to change the outcome of the October 22 vote, nor asked that any of the rules adopted in the new order should be changed. No reasonable person could conclude otherwise. Securus’s filings were not substantive *ex parte* presentations – they were a means to inform the Commission of exigent circumstances arising from the press release, and only the press release is referenced. For Mr. Petro to assert that Securus’s filings are “a blatant attempt to alter the rules to be contained in the Second Report and Order” (Petro Motion at 2) would be laughable if the situation were not so dangerous.

As the Smith Declaration shows, law enforcement has taken the death threats seriously. After contacting the FBI and local police, some Securus executives are under 24-hour police protection. Smith Decl. ¶ 6. Mr. Petro’s characterization of a “false emergency” is simply wrong. His Motion is unfounded, his requested relief is inappropriate, and his reaction to these incidents is shameful.

CONCLUSION

For the foregoing reasons, the Commission should not consider Securus’s filings to be in violation of its Rules, should retain both filings in the record, and should deny the Petro Motion *in toto*.

Dated: November 3, 2015

Respectfully submitted,

By: s/Stephanie A. Joyce
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CERTIFICATE OF SERVICE

I hereby certify on this 3rd day of November 2015, that the foregoing Response to Notice of Apparent Ex Parte Violation and Motion to Strike Prohibited Ex Parte Presentations was served via First Class and electronic mail on the following person:

Lee G. Petro
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Lee.Petro@dbr.com

By: s/Stephanie A. Joyce
Stephanie A. Joyce

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DECLARATION OF RICHARD A. SMITH

I, Richard A. Smith, hereby affirm under penalty of perjury and pursuant to 18 U.S.C. § 1621, that

1. I am the Chief Executive Officer of Securus Technologies, Inc. (“Securus”), and my business address is 14651 Dallas Parkway, Sixth Floor, Dallas, TX 75254. I have personal knowledge of the matters stated herein and am competent to testify as to the same.

2. I make this Declaration in response to the Notice of Ex Parte Violation issued October 29, 2015, and the Motion to Strike filed by Lee G. Petro on November 2, 2015.

3. On October 22, 2015, after the Commission voted the new order in this docket, it issued a press release which included the statement that inmate-initiated telephone calls are “ballooning to \$14 per minute.” A few days after that press release was issued, Securus became aware of multiple threats made against its executives in direct response to that “\$14 per minute” statement. These threats included statements like:

- “Some of these ceos need to be beaten down by former convicts, or whatever these criminals think is fair.”
- “... bastards are going to be gunned down in the streets. mock my words.”
- “Richard Smith and Brian Oliver have been added to my list of people I would beat senseless[.]”

- “Why don’t we find out where these executives live and do something about this?”

4. I wanted to show the Commission these threats, because they arose from a Commission statement that grossly overstates the truth. Securus does not charge \$14 per minute for telephone calls or anything close to that. Securus has been complying with the first Inmate Rate Order, charging \$0.21 per minute for interstate calls, and its intrastate calls on average cost \$3.50 for a 15-minute call.

5. In addition to the written threats against Securus that have been filed in this docket, Securus executives have personally received threatening phone calls since October 22, 2015.

6. Securus contacted the FBI and local police to seek assistance regarding these death threats. Some Securus executives now have 24-hour police protection. Obviously, law enforcement believes these threats are credible and serious.

7. Securus counsel contacted FCC Staff to ask how these death threats can be brought to the Commission’s attention despite the ongoing “Sunshine” period. Securus was informed that under the circumstances a filing could be made. Securus believes that it followed the directives of Staff when it made the October 26 filing.

I affirm that the foregoing is true and correct to the best of my knowledge.

Dated: November 3rd, 2015



Richard A. Smith
Chief Executive Officer
Securus Technologies, Inc.